

Senate Bill No. 223

Passed the Senate August 30, 2007

Secretary of the Senate

Passed the Assembly July 20, 2007

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2007, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 11323 of the Business and Professions Code, and to add Article 7 (commencing with Section 1090.5) to Chapter 1 of Title 4 of Part 4 of Division 2 of the Civil Code, relating to real estate appraisals, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 223, Machado. Real estate appraisals.

(1) The Real Estate Appraisers' Licensing and Certification Law, which is part of the Real Estate Law, provides for the licensing and certification of real estate appraisers. That law prohibits a licensed appraiser from engaging in any appraisal activity in connection with the purchase, sale, or transfer of real property if his or her compensation is affected by the sales commission generated by the transaction for which the appraisal was made. Existing law makes a knowing and willful violation of the Real Estate Law a misdemeanor.

This bill would prohibit a licensed appraiser from engaging in any appraisal activity in connection with the purchase, sale, transfer, financing, or development of real property if his or her compensation is dependent on or affected by the value conclusion generated by the appraisal. By broadening the definition of a crime, this bill would impose a state-mandated local program.

(2) Existing law regulates the transfer of real property and the activities of real estate brokers and mortgage lenders.

This bill would prohibit anyone with an interest in a real estate transaction involving an appraisal from improperly influencing, as specified, the reporting, result, or review of a real estate appraisal sought in connection with a mortgage loan. The bill would provide, if a person who violates these provisions is licensed by a state licensing law and the violation occurs within the course and scope of the person's duties as a licensee, that the violation shall be deemed a violation of that state licensing law. The bill would also provide that nothing in these provisions shall be construed to authorize communications that are otherwise prohibited under existing law.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(4) This bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. Section 11323 of the Business and Professions Code is amended to read:

11323. No licensee shall engage in any appraisal activity in connection with the purchase, sale, transfer, financing, or development of real property if his or her compensation is dependent on or affected by the value conclusion generated by the appraisal.

SEC. 2. Article 7 (commencing with Section 1090.5) is added to Chapter 1 of Title 4 of Part 4 of Division 2 of the Civil Code, to read:

Article 7. Unlawful Influence of Appraisers

1090.5. (a) No person with an interest in a real estate transaction involving an appraisal shall improperly influence or attempt to improperly influence, through coercion, extortion, or bribery, the development, reporting, result, or review of a real estate appraisal sought in connection with a mortgage loan.

(b) Subdivision (a) does not prohibit a person with an interest in a real estate transaction from asking an appraiser to do any of the following:

(1) Consider additional, appropriate property information.

(2) Provide further detail, substantiation, or explanation for the appraiser's value conclusion.

(3) Correct errors in the appraisal report.

(c) If a person who violates this section is licensed under any state licensing law and the violation occurs within the course and scope of the person's duties as a licensee, the violation shall be deemed a violation of that state licensing law.

(d) Nothing in this section shall be construed to authorize communications that are otherwise prohibited under existing law.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to take immediate steps to bring credibility to mortgage lending in California, and to protect consumers and other participants in mortgage transactions from fraudulent and deceitful practices, it is necessary that this act take effect immediately.

Approved _____, 2007

Governor